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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 09/848,583

Filing Date: May 03, 2001

Appellant(s): MATTHES ET AL.

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Alfred K. Dassler  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed 08 December 2009 appealing from the Office action mailed 01 August 2008.

**(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

The following are the related appeals, interferences, and judicial proceedings known to the examiner which may be related to, directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal:

Appeal No. 2005-0996.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is correct.

**(4) Status of Amendments After Final**

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

**(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(8) Evidence Relied Upon**

4,922,773

ITO

5-1990

4,523,502

BESEMANN

6-1985

6,536,319	BOSS	3-2003
4,505,173	HARTLAGE	3-1985
4,553,080	CANNON et al.	11-1985

**(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

- Claims 1-4, 6, 7, 10, and 14 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Ito (4,922,773) in view of Besemann (4,523,502), Boss (6,536,319), and Hartlage (4,505,173). In regards to claim 1, Ito discloses the invention including a cutting station (12, 22, 49), a transport device (53) having a course of motion (Fig. 4), a first drive for driving the transport device (57), a stroke device (14 and 24) for moving knives (13 and 23) in a knife motion for performing the trimming of the margins (Column 8 lines 20-25), a second drive for driving for driving the stroke device (Drive mechanism (not shown) in Column 8 lines 20-21), and the first drive and the second drive being separate (57 is clearly independent from Drive mechanism (not shown)).

In regards to claims 2 and 3, Ito discloses the cutting device is capable of trimming margins of joined/stitched-together sheets of paper (7).

In regards to claim 4, Ito discloses the control system includes a first and second control unit (Fig. 6), the first drive being linked to the first control unit (Fig. 6), a second drive being linked to the second control unit (Fig. 6), and a connection linking the first control unit to the second control unit (73).

In regards to claims 6 and 7, Ito discloses the first drive is connected by the first control unit and the second drive by the second control unit to a machine control unit (74) and the machine control unit had a human-machine interface (71 and 72).

In regards to claim 10, the drives are motors (57 and drive mechanism) and at least one of the control units has a programmable logic controller (75 and 76).

However, Ito discloses 2 separate drives and it could be assumed that the entire apparatus including the 2 separate drives are controlled by one central computer or power source especially since the cutter must be synchronized with the conveyor, however Ito fails to disclose this fact and therefore fails to disclose both drives being connected to the other via a control system for setting the course of motion of the transport device to the knife motion as a function of product format.

Besemann teaches it is old and well known in the art of tools that include a transfer drive and a cutter drive to incorporate both drives being connected to the other via a control system for setting the course of motion of the transport device to the knife motion as a function of product format (Column 2 lines 30-37). Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention to have provided Ito with one control for both drives, as taught by Besemann, to allow both drives to be controlled from the same station and because all claimed elements were known in the prior art and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective function and the combination would have yielded predictable results.

Also, Ito fails to disclose a first cutting station having a first cutting station having a first cutting knife, a second cutting station following the first cutting station in a transportation direction and receiving products from the first cutting station, the second cutting station having further cutting knives, the stroke device moves the knives of both stations, and the first cutting knife is perpendicular to the transport direction and the further knives are parallel to the transport direction, the first cutting station has a cutting knife, the second cutting station having cutting knives, and the first cutting knife is perpendicular to the transport direction and the further knives are parallel to the transport direction.

Boss teaches it is old and well known in the art of three-sided trimmers to incorporate a first cutting station (A), a second cutting station following the first cutting station in a transportation direction and receiving products from the first cutting station (B), the stroke device moves the knives of both stations (69), the lead knife as perpendicular to the transport direction (2) followed by the two knives parallel to the transport direction (6, 6'). Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have provided Ito with 2 cutting stations, as taught by Boss, because all claimed elements were known in the prior art and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective function and the combination would have yielded predictable results.

Further, Ito fails to disclose the transport device has front stops.

Hartlage teaches it is old and well known in the art of three-knife cutters to incorporate a transport device with front stops (13, 14). Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have provided Ito with stops, as taught by Hartlage, because all claimed elements were known in the prior art and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective function and the combination would have yielded predictable results.

It is also, old and well known in the art of drive controlled structures for the control system to set the speed of the drive member driving the transport structure at speeds deemed necessary. Therefore, it would have been obvious to one of ordinary skill to all the combination structure disclosed by Ito in view of Besemann, Boss, and Hartlage to control the speed of the first drive to a speed of the products at the first stops as a function of product format. Basically, it is old and well known in the art of product speed to speed up or slow down the speed of the product based on specific perimeters (i.e. a certain speed may damage the product if it hits the stops at too fast of a speed, therefore based on the specifications of the product, it is old and well known to determine a specific speed that would allow the product to arrive quickly and safely at the stops). The claim would have been obvious because a person of ordinary skill has good reason to pursue the known options within technical grasp. If this leads to the anticipated success, it is likely the product is not of innovation but of ordinary skill and common sense.

- Claims 8 and 9 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Ito in view of Besemann, Boss, and Hartlage as applied to claims 1 and 4 above, and further in view of Cannon et al. (4,553,080). Ito in view of Besemann and in view of Boss disclose the invention including the first and second drives are motors (57 and drive mechanism in Ito).

However, Ito in view of Besemann, Boss, and Hartlage fail to disclose position transducers connected to the first control unit and drive and to the second control unit and drive. Cannon et al teaches that it is old and well known to exchange encoders for position transducers (Background of the Invention). Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have provided Ito in view of Besemann, Boss, and Hartlage with position transducers instead of encoders, as taught by Cannon et al., to provide more a less complex and cheaper apparatus and because all claimed elements were known in the prior art and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective function and the combination would have yielded predictable results.

#### **(10) Response to Argument**

In response to appellant's arguments, the examiner has properly rejected the appealed claims under 35 U.S.C. 103(a). It is clear from appellant's brief that the issue being argued is the combination of Ito in view of Besemann. The remaining combinations (Ito in view of Boss and Hartlage further in view of Cannon et al.) are not argued by appellant. The issue pertains to the limitation "both drives being connected

to the other via a control system for setting the course of motion of the transport device to the knife motion as a function of product format". On page 6 first paragraph and the top two paragraphs of page 7, appellant argues against the structure of the Besemann patent however, as pointed out by appellant (page 6 second sentence of the third paragraph) the portion relied on in Besemann is pertains to the disclosure of Neubueser (4,474,093). As can be seen in the rejection above, the Besemann reference is only being used to teach it is old and well known to connect and synchronize a transfer device and a cutter via a control/computer (column 2 lines 30-37). All of the structure of Besemann argued by the appellant has not been relied on or used by the examiner in the rejection. All of the remaining structural details are disclosed by Ito or by Ito in view of Boss and Hartlage further in view of Cannon et al.

Next appellant argues that computer, of Besemann column 2 lines 30-37, controls the relationship of the cutter to the transport device based on a quantity of sheets and not on product format. The term "product format" is extremely broad and the quantity of sheets in a single set as a whole could be considered product format especially when the product is the entire set of sheets. If the quantity of sheets is different in two different products, these products would have different thicknesses, weight, etc. Therefore, a quantity of sheets could be considered product format.

As explained in the rejection above, Ito discloses 2 separate drives and it could be assumed that the entire apparatus including the 2 separate drives are controlled by one central computer or power source especially since the cutter must be synchronized with the conveyor, however Ito fails to disclose this fact and therefore fails to disclose

both drives being connected to the other via a control system for setting the course of motion of the transport device to the knife motion as a function of product format. The Besemann reference is used to teach it is old and well known to link/connect a transfer drive and a cutter drive with a computer/controller. Column 2 lines 35-37 of Besemann, discloses "A computer is provided to synchronize the operation of the cross cutter with that of the transfer device". Basically, column 2 lines 35-37 of Besemann teaches it is old and well known in the art for an apparatus including a transfer drive and a cutter drive to link/connect the drives with a controller/computer. Next, the term "synchronize" from column 2 lines 35-37 of Besemann was analyzed. In order for the operation of the cutter and the transfer device to be synchronized the format of the work piece must be taken into account. If the cutter and the transfer device are synchronized without taking into account the product format, the wrong cut may occur. For example, this wrong cut may be in the wrong position or may not have formed enough cuts. Basically, if the product format is not taken into account, the cutter and the transfer drive could not be synchronized during use because the wrong output would be created. Synchronization of the transfer drive and the cutter is done to obtain the correct final product and in order to obtain the correct final product the product format must be included in the synchronization. It is also old and well known in the art of machines having more than one drive working together to synchronize these drives together along with the work piece or product format to get the desired outcome. The claim would have been obvious because a person of ordinary skill has good reason to pursue the

known options within technical grasp. If this leads to the anticipated success, it is likely the product is not of innovation but of ordinary skill and common sense.

Also, the limitation "a control system configured for setting the course of motion of the transport device to the knife motion as a function of product format" would have a formula or equation associated with it. It is noted that each variable (the course of motion of the transport device, the knife motion, and the product format) of this formula/equation would be a known variable and that there are an infinite numbers of constants that could be applied that would equalize the relationship between the course of motion of the transport device, the knife motion, and the product format. Basically, if all of the variables of an equation are known, one could apply countless constants to that equation to equalize it.

In conclusion, Ito in view of Besemann, Boss, and Hartlage further in view of Cannon et al. disclose all of the limitations of the claims under appeal.

**(11) Related Proceeding(s) Appendix**

Copies of the court or Board decision(s) identified in the Related Appeals and Interferences section of this examiner's answer are provided herein.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Jason Daniel Prone/

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